

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8599 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

BHANUBEN VITHALBHAI BAVALIA

Versus

GUJARAT ELECTRICITY BOARD

Appearance:

PARTY-IN-PERSON for Petitioner

MR MD PANDYA for Respondent No. 1

CORAM : MR.JUSTICE M.R.CALLA

Date of decision: 16/01/97

ORAL JUDGMENT

1. Rule. Mr. Pandya waives service of Rule on behalf of respondent No.1. On the request of both the sides, the matter is taken up for final hearing today.

2. Notice of this petition was issued to the respondent. The reply has not been filed but Mr. Pandya, appearing for the G.E.B., has submitted that all

the dues have been paid to the petitioner. This position is not disputed by the petitioner herself. The petitioner was asked through Ms. Pahwa, learned advocate present in the court, to verify from the petitioner with regard to this position and after taking instructions from the petitioner present in person, Ms. Pahwa has informed that all the dues have been paid to the petitioner and the only grievance which now survives is with regard to the compassionate appointment, which the petitioner seeks because her husband had expired while being in service as a result of an accident. Mr. Pandya has referred to a letter dated 13.1.97 received by him from the Superintending Engineer of Gujarat Electricity Board, C.O., Bhavnagar and has submitted that at present one post of Sweeper is vacant under the Circle Office of Bhavnagar, but there is a backlog of the S.T. points in this category and, therefore, the Gujarat Electricity Board is not in a position to give her appointment at this stage and she will be given employment when the backlog is cleared and the vacancies arise. Let this letter dated 13.1.97 be taken on record. Mr. Pandya has further submitted that the petitioner is at Sr. No.1 for the purpose of compassionate appointment and the only difficulty is with regard to the backlog of S.T. points. So far as the compassionate appointments are concerned, the Rules and instructions with regard to compassionate appointment have an over riding effect over the normal procedure to be followed. Looking to the facts of this case, Mr. D.A. Bambhania, learned Addl.G.P., who was incidentally present in the Court, was called upon to produce the relevant Rules. Mr. Bambhania has submitted that so far as compassionate appointments are concerned, under the Rules and the instructions of Government of Gujarat, there is no legal impediment of the backlog of S.T. points and the compassionate appointments can be given even if the vacancy pertains to the backlog of S.T. points. Mr. Pandya appearing on behalf of the G.E.B. has also not been able to place or point out any such legal impediment against the compassionate appointment.

3. In the facts and circumstances of this case, I find that the objection, which has been pointed out in the letter dated 13.1.97 that on account of the backlog of S.T. points the appointment can not be given to the petitioner on compassionate grounds, is unfounded. The petitioner's husband had died in the year 1982 and she is at Sr. No.1 in the priority list of the dependents of the employees who have died while being in service. The respondent may, therefore, go ahead with the question of giving compassionate appointment to the petitioner

notwithstanding the objection which has been pointed out in the letter dated 13.1.97 and the appropriate orders in this regard giving appointment on compassionate ground to the petitioner against any available vacancy shall be issued within a period of one month from today after processing her application in accordance with law.

4. This Special Civil Application is accordingly allowed and the Rule is made absolute.